

This letter responds to a survey regarding Use Tax collection. See 86 Ill. Adm. Code 150.101. (This is a GIL).

October 31, 2002

Dear Xxxxx:

This letter is in response the Illinois State Survey received by our office on August 30, 2002. We apologize for the delay in responding to your inquiry. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

With many states facing a budget crisis, it is imperative that each state collects all of the tax that is due from its corporate and individual taxpayers. One of the areas where tax compliance is weak is in the use tax area. Though most states have enacted a use tax, it is perceived that few states aggressively collect the tax.

As researchers on the accounting faculty of University, we are conducting a survey on sales and use taxes in the United States. One phase of the project involves surveying states to determine what methods are used to collect use tax, evaluating the collection methods to determine which are most effective, and reviewing the means used to educate taxpayers about the use tax. We also plan to survey individual taxpayers to gauge their level of knowledge of use tax and their compliance with use tax law.

Please have a qualified person in your Sales and Use Tax Division complete the attached survey, a copy of which is being sent to each state that has a use tax and to the District of Columbia. We will post the survey results on our department website. If you include an email address with your survey, we will notify you when the data collected has been analyzed and is available online.

Thank you for your assistance with this project. Your participation is vital to its success.

#### **DEPARTMENT'S RESPONSE:**

We are pleased to have the opportunity to respond to your survey, but regret that we are unable to do so in the survey format. The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See Ill. Adm. Code 150.101. These taxes comprise what is commonly known as "sales" tax in Illinois. If the purchases occur in Illinois, the purchasers must pay the Use Tax to the retailer at the

time of purchase. The retailers are then allowed to retain the amount of Use Tax paid to reimburse themselves for their Retailers' Occupation Tax liability incurred on those sales. If the purchases occur outside Illinois from retailers, who do not collect Illinois Use Tax from their purchasers, Illinois purchasers must self assess their Use Tax liability and remit it directly to the Department.

Illinois collects use taxes on a number of different forms and these methods have not changed within the last five years. Retailers maintaining a place of business in this State that are required to collect Illinois use tax from their customers report this tax on Form ST-1, Sales and Use Tax Return. Such retailers also report their own use tax liability on such forms.

Illinois consumers report their use tax liability on Form ST-44, Illinois Use Tax Return and pay the tax directly to the Illinois Department of Revenue. This form is used for use tax payments when the purchase was from an out-of-State retailer that was not required or did not voluntarily register to collect Illinois use tax. Taxpayers use Form RUT-25, Use Tax Transaction Return, to report and pay tax to the Department on the purchase of certain tangible personal property from an out-of-State retailer that was not required or did not voluntarily register to collect Illinois use tax.<sup>1</sup> In addition, taxpayers use Form RUT-50, Vehicle Use Tax Return, to report and pay tax to the Department on the purchase of a motor vehicle from persons other than retailers (this tax is commonly referred to as "private vehicle use tax").

Since there are various reporting methods, we cannot provide you with a specific number of taxpayers reporting use tax liabilities. For example, some taxpayers report Retailers' Occupation Tax liabilities monthly and occasionally report their own use tax liabilities on these returns. Other taxpayers use one time reporting returns and may file more than one type of these returns (such as the ST-44 and RUT-25 or RUT-50) within the same year.

The following are the amount of use tax dollar collections for the last 5-years:

2001	1.060 Billion
2000	1.045 Billion
1999	972 Million
1998	878 Million
1997	823 Million

We cannot provide any information on an estimated compliance rate. Please note that the rate could vary by use tax type. For example in the case of motor vehicles, the compliance rate may be as high as 100% because those vehicles are required to be registered with the State, and will not be registered until the proper amount of tax is paid.

Auditing of business taxpayers is the only other method currently used by the Department to collect unreported use tax on items purchased out-of -State from out-of-State retailers that are not required or did not voluntarily register to collect Illinois use tax. No amnesty program was provided during the five-year period listed above. The Department of Revenue's Board of Appeals does provide a voluntary disclosure program that can provide limited liabilities for participants who come forward and disclose their tax liabilities. See 86 Ill. Adm. Code 210.126 for information about the Department's voluntary disclosure program.

The State of Illinois is considered a Participating State in the Streamlined Sales Tax Project. See 35 ILCS 171/1 et seq. We do not believe that it is appropriate for our office to comment on the provisions of the SSTP until such provisions have been officially adopted by the Implementing States.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton  
Associate Counsel

TDC:msk

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<sup>1</sup>This reporting applies to tangible personal property that is required to be registered with an agency of this State's government (motor vehicles, aircraft, and watercraft etc.).